

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Sara Griffin	Team: Squad #4	CCRB Case #: 201905210	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 06/08/2019 2:55 AM	Location of Incident: § 87(2)(b)	Precinct: 67	18 Mo. SOL 12/8/2020	EO SOL 7/25/2021	
Date/Time CV Reported Mon, 06/17/2019 9:13 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 06/17/2019 9:13 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SGT Michael Cozier	01144	943112	067 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Denis Gamez	07601	949000	067 PCT
2. POM Juan Fernandez	18423	958583	067 PCT
3. POM Delio Fernandez	16156	957578	067 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Michael Cozier	Abuse: Sergeant Michael Cozier entered § 87(2)(b) in Brooklyn.	§ 87(2)(b)
B.SGT Michael Cozier	Abuse: Sergeant Michael Cozier searched § 87(2)(b) in Brooklyn.	§ 87(2)(b)
C.SGT Michael Cozier	Abuse: Sergeant Michael Cozier seized § 87(2)(b) s property.	§ 87(2)(b)

## Case Summary

On June 17, 2019, § 87(2)(b) called the CCRB and filed the following complaint.

On June 8, 2019, at approximately 2:55 a.m., § 87(2)(b) allowed an acquaintance, § 87(2)(b) to host her birthday party at his residence, located at § 87(2)(b) in Brooklyn. Sergeant Michael Cozier, of the 67<sup>th</sup> Precinct, and additional officers from the 67<sup>th</sup> Precinct, entered and searched § 87(2)(b)'s residence (**Allegations A and B: Abuse of Authority, § 87(2)(g)**). Sgt. Cozier seized § 87(2)(b)'s property (**Allegation C: Abuse of Authority: § 87(2)(g)**). § 87(2)(b) was for § 87(2)(b) (Board Review 1).

There is Body Worn Camera (BWC) footage and surveillance footage capturing the incident.

## Findings and Recommendations

**Allegation A- Abuse of Authority: Sergeant Michael Cozier entered § 87(2)(b) in Brooklyn.**

**Allegation B- Abuse of Authority: Sergeant Michael Cozier searched § 87(2)(b) in Brooklyn.**

§ 87(2)(b) testified (Board Review 2) that he allowed a family friend, § 87(2)(b) to host her birthday party in his detached garage. The garage was renovated to include furniture, bathrooms, two bars stocked with alcohol, refrigerators, and a DJ booth. § 87(2)(b) does not have a liquor license for the location. § 87(2)(b) denied § 87(2)(b) paid to rent the location. § 87(2)(b) believed § 87(2)(b) advertised the party by word-of-mouth, and did not know if § 87(2)(b) advertised the party on any social media platforms. § 87(2)(b) party was not considered open to the public. § 87(2)(b) denied that admission was being charged and that alcohol was being exchanged for currency. § 87(2)(b) described the party as being “BYOB” or Bring Your Own Booze. § 87(2)(b) had hired a security guard to stand outside of the residence.

During the party, an intoxicated neighbor, whom § 87(2)(b) only knows as “§ 87(2)(b)” entered the party uninvited. § 87(2)(b) escorted § 87(2)(b) out of the party. § 87(2)(b) told § 87(2)(b) that he was going to call the police, but did not explain why he would call the police. Approximately 30 to 45 minutes later, § 87(2)(b) was seated inside of his residence watching the surveillance cameras capturing the garage, when he observed approximately nine uniformed officers arrived at his residence, walked past the security guard at the fence, and into the garage. § 87(2)(b) did not know what the officers did once inside the garage. § 87(2)(b) was later informed by his wife, § 87(2)(b) who was inside the garage at the time, that the officers approached the bar area and stated that they had received a call about the location. § 87(2)(b) identified herself as the birthday host, before being requested to provide identification. A short while later, § 87(2)(b) was arrested and transported to the stationhouse. § 87(2)(b) remained inside of his residence during the entirety of the incident and did not interact with any officers.

The flyer advertising § 87(2)(b) party was provided to the investigation (Board Review 5). The flyer does not state that the event is open to the public.

Video footage from Sgt. Cozier's body-worn camera (Board Review 6) captures the incident. At 0:28, Sgt. Cozier exits a vehicle and approaches a fence. A security guard is standing next to the fence. Loud music can be heard playing. Sgt. Cozier says, "Excuse me," and opens and walks through the gate and into a barn. At 1:00, § 87(2)(b) approaches Sgt. Cozier and identifies the party as belonging to her and says that it is a free party. At 01:40, Sgt. Cozier puts over the radio that a business inspection is being conducted at the intersection of § 87(2)(b). § 87(2)(b) tells Sgt. Cozier that it's a private event. Sgt. Cozier tells § 87(2)(b) that there was a 911 call. At 2:10, Sgt. Cozier picks up a jar with money inside. At 3:30, Sgt. Cozier tells another officer that there is money inside and "we're good." At 4:50, an unidentified black female approaches Sgt. Cozier and inquires what is going on. Sgt. Cozier states that party is an "illegal party" and the location is an unlicensed social club that throws a lot of parties. At 05:40, Sgt. Cozier states that it is an "illegal bar." At 6:10, Sgt. Cozier states that the birthday girl is the "promoter" since it's her birthday. At 7:10, Sgt. Cozier tells the party goers that they must leave immediately. At 8:00, an unidentified black female behind the identifies herself as living at the residence, but that her husband owns the house. At 10:45, another female offers shows Sgt. Cozier a flyer of the event on her cell phone and states that the event is not a paid event. At 13:25, Sgt. Cozier asks the female who identified herself as residing at the location to retrieve an identification. At 15:15, the female who resides there is instructed to leave the bar. Sgt. Cozier tells § 87(2)(b) she is going to the precinct and is under arrest for the illegal party. At 16:10, § 87(2)(b) is handcuffed. At 18:40, Sgt. Cozier tells § 87(2)(b) that she is being arrested because the house owner would not present himself. At 19:55, § 87(2)(b) tells Sgt. Cozier that she did not rent the place, which Sgt. Cozier acknowledges.

Sgt. Cozier testified (Board Review 3) that officers received a 911 call from a male caller who stated the house on the corner of § 87(2)(b) was hosting a party and selling alcohol. Sgt. Cozier did not call the 911 caller, as he wanted to go to the location and see what was there. Upon arrival to the location, an officer, whom Sgt. Cozier could not recall, informed him that the house was a known location in the precinct and that the officers had entered the residence in November 2018 and it was determined the residence was selling alcohol. Sgt. Cozier had not seen any social media postings regarding § 87(2)(b) or for the party that was being hosted that evening. Other than the officer's statement and the 911 call, Sgt. Cozier did not have any other intelligence on the location operating as an unlicensed bottle club. Sgt. Cozier did observe a male security guard standing in front of the residence's gate. Sgt. Cozier did not see the security guard accept any currency from patrons entering through the gate. Sgt. Cozier did not recall if music was heard from outside of the location.

Sgt. Cozier entered through the gate and observed patrons inside of the garage consuming alcohol. Sgt. Cozier saw patrons holding beer bottles, plastic cups, and liquor bottles. Sgt. Cozier entered the garage with the intention of conducting a business inspection. Sgt. Cozier denied he obtained consent or a warrant before entering and confirmed there was no emergency inside the residence. Sgt. Cozier stated officers can enter a residence to conduct a business inspection when the residence is hosting an illegal party and selling alcohol. Sgt. Cozier stated there are no set hours of operation when a business inspection can be conducted on a residence.

Sgt. Cozier approached the bar and observed alcohol behind the bar. Sgt. Cozier did not see a liquor license posted near the bar. Sgt. Cozier did not see any money being exchanged for alcohol, but there was a tip jar and a money tray with currency inside. § 87(2)(b) approached Sgt. Cozier and stated that it was her party. § 87(2)(b) showed Sgt. Cozier a flyer for the event, which Sgt. Cozier only recalled listed the address of § 87(2)(b). When asked if the flyer stated, “open to the public,” Sgt. Cozier testified that anytime there is a flyer with an address on it the party is considered open to the public. Sgt. Cozier denied the flyer specifically stated, “Open to the public.” § 87(2)(b) was arrested for operating an unlicensed bottle club, since she was the promoter of the party, and the owner of the residence did not present themselves.

Event § 87(2)(b) (Board Review 4) states that the house at the corner has a lot of lights, is hosting a house party, and is selling alcohol. The location of the 911 call was § 87(2)(b). The job was marked as “disorderly group inside.”

The Constitution is not a barrier to a police officer seeking to help someone in immediate danger, thereby excusing or justifying otherwise impermissible police conduct that is an objectively reasonable response to an apparent exigent situation. The exception is comprised of three elements: (1) the police must have reasonable grounds to believe that there is an emergency at hand and an immediate need for their assistance for the protection of life or property and this belief must be grounded in empirical facts; (2) the search must not be primarily motivated by an intent to arrest or seize evidence; and (3) there must be some reasonable basis, approximating probable cause, to associate the emergency with the area or place to be searched. People v. Doll 21 N.Y.3d 665 (2013) (Board Review 7). Curtilage questions should be resolved with particular reference to four factors: the proximity of the area claimed to be curtilage to the home, whether the area is included within an enclosure surrounding the home, the nature of the uses to which the area is put, and the steps taken by the resident to protect the area for observation by people passing by. United States v. Dunn 480 U.S. 294 (1987) (Board Review 8). If an event is being held within a private location (such as inside a house, apartment or a fenced backyard that is not open to the public) then the police need consent, an emergency, or a search warrant to enter. New York Police Department Legal Bureau’s Civil Enforcement Unit’s Infographic #3 (Board Review 9). According to Patrol Guide Procedure 214-34 (Board Review 10), conditions or police action directly concerning the operation of an unlicensed premise in which alcohol is being sold during an event should be brought to the attention of the State Liquor License Authority, Department of Buildings, Fire Department, or any other City agency.

§ 87(2)(g)  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Allegation C- Abuse of Authority: Sergeant Michael Cozier seized § 87(2)(b) s property.**

§ 87(2)(b) testified (Board Review 2) that all the alcohol behind the bar, the DJ booth's wiring and microphone, and his laptop were seized by the officers. § 87(2)(b) did not receive any vouchers for the seized items.

Sgt. Cozier testified (Board Review 3) that the alcohol, currency, wiring, microphone, and laptop were seized and vouchered as evidence of the illegal party.

Property Vouchers (Board Review 11) were generated for the seized items. The alcohol, microphone, wiring, and laptop, beer, and wine were categorized as arrest evidence. The currency was categorized as forfeiture. The vouchers are associated with § 87(2)(b) arrest, and not identified as § 87(2)(b) s property. Sgt. Cozier was the approving supervisor listed on § 87(2)(b) arrest and on the vouchers related to the arrest.

Patrol Guide Procedure 218-19 (Board Review 15) states property can be seized as arrest evidence.

§ 87(2)(g)  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED].

**Civilian and Officer CCRB Histories**

- § 87(2)(b) has been party to four CCRB complaints and has been named as a victim in nine of the allegations (Board Review 12):
  - § 87(2)(b) [REDACTED]  
[REDACTED]  
[REDACTED]
  - [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]
  - [REDACTED]  
[REDACTED]  
[REDACTED].
- Sgt. Cozier has been a member of service for 12 years and has been a subject in four CCRB complaints and 11 allegations, of which one was substantiated (Board Review 13):
  - 201300682 involved a substantiated allegation of retaliatory summons against Sgt. Cozier. The Board recommended instructions and the NYPD concurred.

## Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- As October 15, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this incident (Board Review 16).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Squad No.: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature                      Print Title & Name                      Date

Squad Leader: \_\_\_\_\_

Signature                      Print Title & Name                      Date

Reviewer: \_\_\_\_\_

Signature \_\_\_\_\_ Print Title & Name \_\_\_\_\_ Date \_\_\_\_\_